

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF VIRGINIA
CHARLOTTESVILLE DIVISION**

ELIZABETH SINES, *et al.*,

Plaintiffs,

v.

JASON KESSLER, *et al.*,

Defendants.

CASE No. 3:17-cv-00072

ORDER

JUDGE NORMAN K. MOON

This matter is further to the Court’s Order of August 26, 2021, granting Defendant Christopher Cantwell’s pro se motion that he be transported to Charlottesville for trial in this case, and further “tak[ing] under advisement the assessment or allocation of transportation costs and other costs of compliance with the writ,” which at the time the Court was advised would be between \$15,000 and \$20,000. Dkt. 1031 at 3–4 (emphasis omitted). Therein, the Court wrote that it “did not discount or consider insignificant the expense entailed in transporting Cantwell to Charlottesville,” but found such expense “reasonable on this record.” *Id.* at 3. The Court further sought submissions from “Cantwell, Plaintiffs, or any other interested party” within seven days on the issue of “assessment or allocation of such costs.” *Id.* at 4. The Court cited precedent that referenced potential “sharing of costs,” as well as imposing transportation costs at the prisoner’s expense or at government expense. *Id.*

No party, “including Cantwell, Plaintiffs, or any other interested party,” responded to the Court’s invitation to submit a filing addressing potential allocation of costs of transportation of Cantwell. The U.S. Marshal’s Service has advised the Court that the final transportation and jail

costs for Cantwell to be transported to and attend the trial are **\$15,927**, and further advised that the Marshal's Service cannot transport Cantwell until it receives payment. The Court has further been advised that the Western District of Virginia has no funds allocated for transportation of an incarcerated witness in a civil case, such as this.

Plaintiffs, in view of their stated intent to call Christopher Cantwell as a witness at trial, (Dkt. 1047 at 2), and Christopher Cantwell in view of his motion for transportation, are hereby **DIRECTED** to file submission(s) by **Friday, September 17 at 5:00 p.m.**, stating their position(s) with respect to payment of transportation costs. Each party shall state their ability and willingness to pay such costs. If either is unable or unwilling to pay such costs, they shall provide authority that Cantwell must be transported without prior payment of travel costs and/or authority supporting imposition of such costs upon another party or source.

The Court's ruling granting Cantwell's unopposed motion for transportation to Charlottesville for trial was predicated upon an assessment of the relevant factors, including costs, and considered on the limited record that such funds were available, and the only remaining issue was allocation thereof. If Cantwell and Plaintiffs who seek to call him as a witness lack funds for transportation and such funds are otherwise unavailable from another source, the Court's assessment of those factors regarding transportation may well be altered.

In the meantime, and to ensure Cantwell be offered the means to participate in a fulsome and meaningful way at trial, wherever he be located, the Court **DIRECTS** counsel for the Plaintiffs and Christopher Cantwell to conduct a meet-and-confer at the earliest time practicable, and through his case manager at U.S.P. Marion, to assess how the parties would envision his presentation of his defense at trial remotely, and any measures that might be sought from this Court to facilitate such participation at trial.

In view of his pro se status, Cantwell may file his submission with the Clerk's Office by electronic means, including fax (434) 295-8909 or email, at HeidiW@vawd.uscourts.gov.

It is so **ORDERED**.

The Clerk of Court is directed to send a certified copy of this Order to the parties.

Entered this 15th day of September, 2021.



NORMAN K. MOON
SENIOR UNITED STATES DISTRICT JUDGE